IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 5.01.2007

CORAM:

THE HONOURABLE MR.JUSTICE P.JYOTHIMANI

C.R.P.(PD).No.567 of 2006
and
C.M.P.Nos.5341, 5284, 159 of 2006

1. Abdul Paazid
2. Jiyavutheen
3. Sherfudeen
4. Abdul Haathi
5. Mohamed Sherif
6. Hithayathulla

... Petitioners(Defendants)

Vs.

N.S.Mohamed Iqbal

... Respondent(Plaintiff)

PRAYER : Civil Revision Petition filed under Article 227 of the Constitution of India against the order dated 22.02.2006 made in I.A.No.10 of 2006 in O.S.No.7 of 2006 on the file of District Munsiff cum Judicial Magistrate, Kattumannarkoil.

For Petitioners : Mr.S.Y.Masood
For Respondent : Mr.G.Pugazhenthi

O R D E R

This revision is filed by the defendants in the suit under Article 227 of the Constitution of India. The suit filed by the plaintiff praying for a permanent injunction restraining the defendants from interfering with the administration of accounts and possession of the plaintiff and jamath proceedings. The plaintiff claims to have been elected as a Muthavalli on 18.06.2005 unanimously by the Jamath members and from the date of the election he has been continuing to function and the defendants have been interfering since the first defendant has been earlier the Muthavalli of the Jamath. In the Pending suit, the plaintiff has filed I.A.No.10 of 2006 on the file of Trial Court praying for an order of interim injunction and the Trial Court has granted an order of exparte interim injunction.

2. The third defendant has filed the counter. According to the defendants the Jamath has elected one Mohamed Faruk, S/o Nizamutheen as Muthavalli on 01.01.2006 and he is functioning as a Muthavalli,

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having control over Pallivasal and its properties. The defendants also denied that the plaintiff was elected as Muthavalli and there was no meeting held on 15.06.2005 to elect Muthavalli at all.

3. According to the defendants, the plaintiff has no locus standi to maintain the suit unless the plaintiff establishes that he was validly elected as Muthavalli. When the matter came up for final hearing Mr.S.Y.Mazood who has appeared on behalf of the petitioners has made his submission, however, in spite of the fact that the respondents was represented through counsel, no one appeared.

4. The learned counsel would submit that due to some subsequent developments, the revision has become infructuous. According to the learned counsel, apart from denying that there was any meeting on 18.06.2005 in which the plaintiff was elected as a Muthavalli, even assuming otherwise the term has come to an end on 17.06.2006, namely, after one year and for the year 2006-2007 Mohamad Farook has been elected and he is holding the post as a Muthavalli. It is also his contention that in fact when there was some dispute, at the direction of the revenue Divisional Officer, the Tahsildar has conducted the election and new office bearers were elected for the year 2006-2007 and they have also taken charge. Therefore, according to the learned counsel, nothing survives in the revision petition, apart from the fact that the suit itself becomes infructuous.

5. In this regard it is relevant to point out that at the time when the revision was filed, this Court by an order dated 04.04.2006, has suspended the order of injunction, passed by the Trial Court in I.A.No.10 of 2006 in O.S.No.7 of 2006. Subsequently, when the respondents have filed a petition to vacate the said order, the same was dismissed as withdrawn, since the learned counsel appearing for the respondents has made an endorsement to that effect and it was in those circumstances, the interim order of suspension made on 04.04.2006, was made absolute. This also supports the contention of the learned counsel for the petitioner as to the subsequent development.

6. In view of the submissions made by the learned counsel for the petitioner and taking note of the subsequent development, the revision petition stands allowed and I.A.No.10 of 2006 in O.S.No.7 of 2006 on the file of the District Munsif Cum Judicial Magistrate Court, Kattumannarkovil stands dismissed with a direction to the

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Trial Court to take up the suit in O.S.No.7 of 2006 and dispose of the same, considering the subsequent development as stated above, after hearing both the parties and report the same to this Court. No Costs. Consequently, the connected C.M.P. is closed.

nbj

Sd/
Asst. Registrar

/true copy/

Sub Asst.Registrar

TO

1. THE DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE,
KATTUMANNARKOIL.

2. THE SECTION OFFICER, MISCELLANEOUS FILING SECTION
JUDICIAL DEPARTMENT, HIGH COURT, MADRAS.

3. THE RECORD KEEPER, VR SECTION,
HIGH COURT, MADRAS.

ONE CC TO MR.S.Y.MASOOD, ADVOCATE SR 964

C.R.P.PD.No.567 of 2006

JRG(CO)

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